

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RICHARD WILLIAMS,

Plaintiff,

vs.

9:11-CV-1158

MARK LEONARD,

Defendants.

Thomas J. McAvoy,
United States District Judge

DECISION & ORDER

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc, was referred to the Hon. Thérèse Wiley Dancks, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that the Defendants violated his right to free exercise of religion while incarcerated.

The Report-Recommendation, dated March 19, 2015, recommended that Defendants’ motion for summary judgment be granted in part and denied in part.

The parties filed timely objections to the Report-Recommendation. When objections to a magistrate judge’s Report-Recommendation are lodged, the Court makes a “*de novo*” determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1). After such a

review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

Having reviewed the record *de novo* and having considered the issues raised in the Plaintiffs’ objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Wiley Dancks for the reasons stated in the Report-Recommendation, with one exception.¹ Magistrate Judge Dancks recommends that the Court deny summary judgment on Plaintiff’s RLUIPA claim “for injunctive relief and damages regarding the length of Plaintiff’s pants” and Plaintiff’s RLUIPA claim “for injunctive relief and damages regarding family participation in Eid el-Adha.” “RLUIPA does not authorize claims for monetary damages against state officers in either their official or individual capacities.” Holland v. Goord, 758 F.3d 215, 224 (2d Cir. 2014) (citing Sossamon v. Texas, 131 S. Ct. 1651, 1663 (2011)). Thus, to the extent that Plaintiff seeks monetary damages against the Defendants in their individual or official capacities under the RLUIPA, such damages

¹The Court notes that the Report-Recommendation contains one apparent typographical error. In discussing the Defendants’ policies concerning hems on pants, the Magistrate Judge noted that the policy had been implemented in 2007 and amended in 2009 and 2013. See dk. # 39 at 26-27. The Magistrate Judge found that the changes to the policy each permitted prisoners to hem their pants higher above their feet in an attempt to accommodate the religious practice at issue here. The Magistrate Judge noted that “[t]his suggests that Defendants were using the least restrictive means to further their interests between 2007 and 2013.” Id. at 27. Since the Magistrate Judge recommended that the Defendants’ motion be denied with respect to the RLUIPA claim, the Court assumes that the Magistrate Judge found that “Defendants were [*not*] using the least restrictive means to further their interests between 2007 and 2013.” The Magistrate Judge would otherwise have found that Defendants were entitled to summary judgment, and the Magistrate Judge clearly found otherwise. The Court agrees with the Magistrate Judge that questions of fact exist with respect to Plaintiff’s claims regarding pant length under the RLUIPA.

are not available.

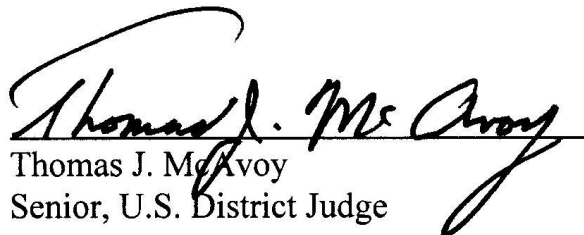
It is therefore

ORDERED that the parties' objections to the Report-Recommendation of Magistrate Jude Wiley Dancks, dkt. ##s 40, 41, are hereby OVERRULED in part. The Report-Recommendation, dkt. # 39, is hereby ADOPTED, except that the Court finds that Plaintiff may not obtain damages against the Defendants in their individual and/or official capacities under the RLUIPA. It is therefore ordered that Defendants' motion for summary judgment, dkt. # 33, is hereby GRANTED in part and DENIED in part, as follows:

1. The motion is GRANTED with respect to Plaintiff's Equal Protection Clause claim for injunctive relief regarding family participation in Eid el-Adha;
2. The motion is GRANTED with respect to any claims Plaintiff makes for damages against the Defendants in their individual and/or official capacities under the RLUIPA; and
3. The motion is DENIED in all other respects

IT IS SO ORDERED.

Dated: June 4, 2015


Thomas J. McAvoy
Senior, U.S. District Judge